

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**ZONING MAP AMENDMENT REPORT (#FZC-21-28)**  
**RITCHARD WRIGHT TRUST**  
**JANUARY 18, 2021**

**I. GENERAL INFORMATION**

**A. Project Description**

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Flathead Geomatics on behalf of Richard Wright for a zoning map amendment within the Rural Whitefish Zoning District. The proposed amendment, if approved, would change the zoning of the subject properties from 'SAG-10 Suburban Agricultural' to 'SAG-5 Suburban Agricultural.'

**B. Application Personnel**

**1. Owner/Applicant**

Richard Wright  
P.O. Box 655  
Whitefish, MT 59937

**2. Technical Representative**

Flathead Geomatics  
P.O. Box 1722  
Whitefish, MT 59937

**C. Process Overview**

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11<sup>th</sup> Street West in Kalispell.

**1. Land Use Advisory Committee/Council**

This property is not located within the jurisdiction of a Land Use Advisory Committee.

**2. Planning Board**

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on February 9, 2022 at 6:00 P.M. in the 2<sup>nd</sup> Floor Conference Room of South Campus Building located at 40 11<sup>th</sup> Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

**3. Commission**

In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

**II. PROPERTY CHARACTERISTICS**

**A. Subject Property Location and Legal Description**

The total acreage of the subject properties is approximately 22.35 acres. The properties are located at just south of Monegan Road near Whitefish, MT (see Figure 1 below). The properties are legally described as:

Tract 2 and Tract 3 of Certificate of Survey No. 4917, all of which tracts are located and being in the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 5 and

in the Northeast Quarter of the Northwest Quarter (NE1/4NW1/4) of Section 8, Township 30, Range 21 West, P.M.M., Flathead County, Montana.

EXCEPTING public roads and rights of way and SUBJECT TO easements, rights of way, restrictions and reservations of record.

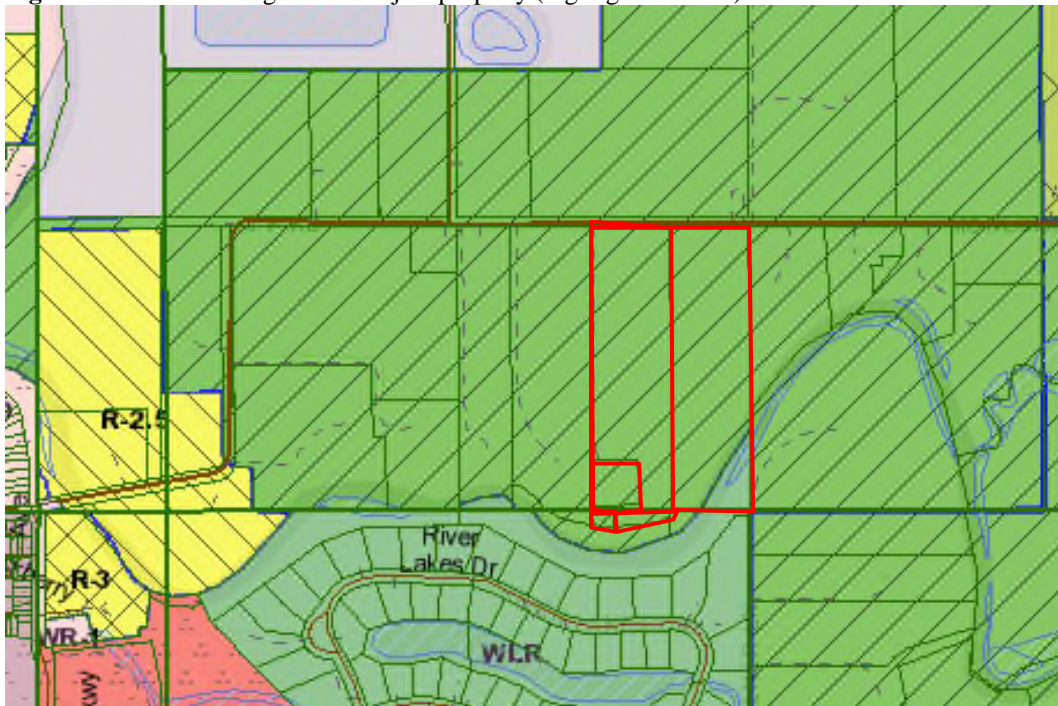
**Figure 1:** Subject property (outlined in yellow)



**B. General Character of and Reason for Amendment**

The subject properties contain one house and some accessory structures. As previously stated, the properties are currently zoned SAG-10 and the applicants are proposing to amend the zoning to SAG-5. The application states, “Richard Wright is wanting this zone change for potential future development on the subject properties to benefit their family. The current zoning is SAG-10 Suburban Agricultural, and they would like to change it to SAG-5 Suburban Agricultural to potentially develop the properties accordingly. Under the current zoning designation of the property, it would not be possible.”

**Figure 2:** Current zoning on the subject property (highlighted in red)



**C. Adjacent Zoning and Character of the Overall Zoning District**

The property is located in the Rural Whitefish Zoning District. The character of the zoning district in the vicinity of the subject property is SAG-10 suburban agricultural, and WLR City of Whitefish.





#### **D. Public Services and Facilities**

Sewer: Septic  
Water: Well  
Electricity: Flathead Electric Cooperative  
Natural Gas: Northwestern Energy  
Telephone: CenturyTel  
Schools: Whitefish School District  
Whitefish High School District  
Fire: Whitefish Rural Fire District  
Police: Flathead County Sheriff

### **III. COMMENTS**

#### **A. Agency Comments**

1. Agency referrals were sent to the following agencies on December 9, 2021:
  - Flathead County Sheriff
  - Montana Department of Transportation
  - Flathead County Road Department
  - Flathead County Solid Waste
  - Flathead City-County Health Department (inter-office mail)
  - Flathead County Weeds & Parks Department
  - Montana Fish, Wildlife & Parks
  - Bonneville Power Administration
  - City of Whitefish Planning Department
  - Whitefish Rural Fire Department
  - Whitefish School District
  - Whitefish Elementary
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
  - Montana Fish, Wildlife & Parks
    - Comment: “As the Flathead Valley undergoes unprecedented development, it is losing wildlife habitat and agricultural lands. Riparian areas, typically representing some of the most important habitat for a wide diversity of wildlife species, are among those sites at risk in this development boom. The area around Blanchard Lake is a riparian habitat that experiences substantial wildlife use, including that of the white-tailed deer, grizzly bears, black bears, and numerous species of birds and other wildlife. Rezoning this property as proposed increases the potential for an important habitat type to be further fragmented.”
  - Flathead County Environmental Health Department
    - Comment: “[...] Based on the information contained in the application, we have no comments to offer at this time.”
  - Flathead County Road & Bridge Department

- Comment: “At this point the County Road Department does not have any comments on this request”
- Bonneville Power Administration
  - Comment: “At this time, BPA does not object to this request, as the property is located 1.27 miles away from the nearest BPA transmission lines or structures.”
- City of Whitefish Fire Department
  - Comment: “The WFSA contracts with the City of Whitefish for fire protection.”

## **B. Public Comments**

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on January 9, 2022. Legal notice of the Planning Board public hearing on this application was published in the January 23, 2022 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for February 9, 2022 and/or the Commissioner’s Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

## **IV. EVALUATION OF PROPOSED AMENDMENT**

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

### **A. Build-Out Analysis**

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning

of the zoning map amendment to the future of the community to allow for the best possible review.

Per Section 3.07 of the Flathead County Zoning Regulations (FCZR), SAG-10 is defined *'A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.'*

The SAG-5 designation is defined in Section 3.08 FCZR as, *'A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.'*

The permitted uses and conditional uses for the proposed and existing zoning are relatively similar. The amendment would decrease the number of permitted uses from 21 to 16 and increase the number of conditional uses from 24 to 29. There are two permitted use within the SAG-10 zone not listed in SAG-5:

- Dairy products, processing, bottling, and distribution, and
- Ranch employee housing.

The permitted uses listed within the SAG-10 that are listed as conditional uses in SAG-5 are as follows:

- Caretaker facility
- Cellular communications tower,
- Riding academy, rodeo arena, and
- Stable, public.

The conditional uses listed within the SAG-5 but not allowed in SAG-10 are:

- Recreational vehicle park.

The bulk and dimensional requirements within the current and proposed zoning require a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. For SAG-10 the permitted lot coverage is 20% and maximum height is 35 feet and for SAG-5 the permitted lot coverage is 25% and maximum height of 35 feet.

The existing zoning requires a minimum lot area of ten acres. The subject properties total 22.35 acres and no additional lots could be created under the existing zoning. The proposed zoning requires a minimum lot area of five acres, therefore two additional lots could be created. The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are similar but the amendment would reduce the number of permitted uses while increasing the number of conditional uses.

**B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

**1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R).

**1. Flathead County Growth Policy**

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Suburban Agricultural.' The proposed SAG-5 zoning classification would appear to conform with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, "This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map."

Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved, the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

Part 4 of Chapter 2 the Growth Policy states, *'It is clear that agriculture plays a vital role in both the economy and culture of Flathead County. The custom and culture of agriculture in Flathead County is one of the features that is contributing to rapid growth and development. Lands that have traditionally been used for agriculture are being converted increasingly to residential uses as residents seek rural living.'*

Part 7 of Chapter 2 the Growth Policy states, *'The change in land uses from agriculture and timberlands to residential and the accompanying impacts of that change, create some of the greatest growth challenges to the county.'*

Currently many of the neighboring properties are used for a mix of agriculture and residential use. The proposed zoning would continue to allow for these uses at a density that can accommodate both on nearby property as well.

The introduction to Part 7 of Chapter 2 states, *'The density of residential developments is an issue raised throughout the public involvement process [...] Residential development, including the subdivision of land, is not inherently*



*problematic. However, residential development at a density that is not compatible with existing local services and neighborhood character is likely to be contentious.’ It goes on to say that, ‘Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low capacity roads are a match, but medium or high density land uses on low capacity roads create problems.’*

The proposed zoning would allow for both small scale agriculture and residential use on the property. The SAG-5 zone is a suburban agriculture zone with a five acre minimum lot size. SAG-5 does not require public water and sewer and the lots would generally be large enough to accommodate a septic system with a drainfield while providing separation for a well. The proposed change would allow for two additional lots and increase traffic by 20 average daily trips, which as discussed below, could be accommodated by the existing road system serving the property.

The following is a consideration of goals and policies which appear to be applicable to the proposed zone change:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
  - The amendment would allow the owner to subdivide but would also allow for the continuation of the existing use on the property.
- ❖ **G.3** – *Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*
  - **P.3.3** – *Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.*
  - **P.4.3** – *Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)*
    - The property is currently used for large tract residential use, small scale agricultural, and the SAG-5 zoning would continue to allow for this and for small scale agriculture, similar to what the existing zone allows for currently.
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
  - **P.4.5** – *Develop equitable and predictable impact-mitigation for converting agricultural lands to residential uses.*
    - The proposed zoning would allow for small scale agriculture or residential use on the subject property while providing additional flexibility to the landowner to subdivide the property and sell off smaller lots. The conversion of the properties from 10 acres minimums to potentially 5 acre residential lots, will not likely affect adjacent agricultural properties as the immediate vicinity consists of many 5 acre residential tracts.

- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
  - The SAG-5 designation would allow for densities of one dwelling unit per five acres for single family. One dwelling unit per five acres would not require public water and sewer. Further discussion on public utilities is contained later in this report.
- **P.8.2** – *Identify required criteria for various densities that support the seven elements of the public’s vision outlined in Chapter 1.*

The Seven Elements of the Public’s Vision include:

  - *Protect the Views*  
The vision states, ‘One characteristic that residents of Flathead County cherish is the view. Views of mountains, lakes, forests, wildlife, and open spaces are cited as characteristics residents of Flathead County would not change. “Scenic resources” are valued throughout the county regardless of age, gender or location.’ The proposed zone change, if approved, would likely have minimal impact on views because it would allow for one additional lot.
  - *Promote a Diverse Economy*  
The vision states, ‘The cost of living and home ownership should be affordable to the median income.’ The proposed zone change, if approved, could allow for additional single family residential uses adding to the housing supply which has the potential to make homeownership more affordable. The SAG-5 zone would allow for Accessory Dwelling Units which have the potential to add affordable rental units to the county.
  - *Manage Transportation*  
Vision 3 discusses managing traffic flow through land development patterns; this report contains discussion regarding the proposals impacts on traffic below.
  - *Maintain the Identity of Rural Communities*  
The vision states, ‘Preventing communities from growing together and losing their unique identities was another concern of many scoping meeting participants. The concern of seeing Flathead County turn into one continuous sprawling development was expressed in a variety of ways. Many residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities.’ The proposed SAG-5 zoning is a rural zoning district that would allow for rural residential development.
  - *Protect Access to and Interaction with Parks and Recreation*  
This report contains a discussion on parks and recreation below.
  - *Properly Manage and Protect the Natural and Human Environment*

The vision states, *‘Air and water quality were mentioned frequently as well as co-habitation of people and wildlife being qualities that make Flathead County unique and desirable. Many residents expressed a desire to protect the lakes, rivers, ponds, groundwater and air for future generations.’* The subject property does not contain any lakes or ponds however a small sliver on the southern properties boundary is within the 100-year floodplain of the Whitefish River. Impacts to groundwater and air will be reviewed by DEQ if any additional development occurs.

- *Preserve the Rights of Private Property Owners.*

As previously stated, the amendment would allow the owner to subdivide the property, but would also allow for the continuation of residential use on the property.

- ❖ *G.15 – Promote a diverse demographic of residents.*

- *P.15.1 – Encourage housing, employment, education and recreation to attract, support and maintain young families.*

- The SAG-5 zone would allow for single family dwellings, manufactured homes and would also allow for accessory dwelling units as a permitted use, all of which has the potential to make housing more affordable for young families.

- ❖ *G.23 – Maintain safe and efficient traffic flow and mobility on county roadways.*

- *P.23.2 – Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*

- Primary access to the property is currently via Monegan Road. Monegan Road is a public two lane, paved road within a 40 foot easement, and the property currently has an approach. It is likely, given the configuration of the property that the existing approach would be utilized for any new lots as shared approaches and the number of new accesses would be minimal.

- ❖ *G.31 – Growth that does not place unreasonable burden on the school district to provide quality education.*

- This report contains discussion on the proposal’s potential burden on schools below.

- ❖ *G.32 – Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*

- ❖ *G.33 – Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*

- This report contains discussion on the adequacy of emergency service below.

**Finding #1:** The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the SAG-5 zone would allow for continued agriculture and residential use, allow for manufactured homes, single family homes and ADUs which has the potential to allow for affordable housing options, and the property is located in a rural area and the proposed zoning is rural in nature.

**2. Whether the proposed map amendment is designed to:**

**a. Secure safety from fire and other dangers;**

The application states, “The subject property is located within the Whitefish Rural Fire District, adjacent to the Whitefish City limits, and approximately three miles from both the Whitefish Rural Fire Hall and the Whitefish Police Department. Additionally, the subject property is not heavily forested, wildland fire is not a great concern.”

The subject property is located within the Whitefish Rural Fire District and the nearest fire station in the district is located approximately 3.4 driving miles from the property. The Whitefish Fire Department would respond in the event of a fire or medical emergency. The Whitefish Fire Department commented, “The WFSA contracts with the City of Whitefish for fire protection.”

Although the subject properties are located in the Wildland Urban Interface (WUI) and is designated in a Medium High County Wide Priority Area., the subject and adjacent properties are not forested.

FEMA FIRM Panel 30029C1090J shows the property as located within a Zone A area. Zone A is an area determined to be in the 1% annual chance floodplain. However, only a sliver to the south of the properties are within the 100-year floodplain and potential further development would not allow for structures in those areas.

**Finding #2:** The proposed map amendment would secure safety from fire and other dangers because although the subject properties are in the WUI and a County Wide Priority area the subject properties and adjacent properties are not forested, and emergency services are available.

**Finding #3:** The subject property has minimal flood risk because only a small sliver of the properties are located within Zone A and within the 100-year floodplain on the FEMA FIRM panel.

**b. Promote public health, public safety, and general welfare;**

The subject property is located within the Whitefish Rural Fire District that would respond in the event of a fire or medical emergency. The nearest rural fire station is located approximately 3.4 miles away along Flathead Avenue.

The subject property is accessed via Monegan Road which is a paved, County road within a 40 foot easement. The road currently serves 26 lots, most of which are developed for residential use. While the road does not meet the Flathead County Road and Bridge Department Minimum Standards for Design and Construction for local roads, a portion of the road would need to be upgraded and additional easement width obtained if the property is divided through subdivision review. Divisions of land through family transfer are anticipated to create minimal impacts in suburban residential areas and therefore don’t require additional infrastructure or improvements.

The intent of the existing ‘SAG-10 Suburban Agricultural’ is to provide and preserve agricultural functions and to provide a buffer between urban and unlimited



agricultural use. The purpose of the proposed 'SAG-5 Suburban Agricultural' is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural use. Within a half mile of the subject property, the lots generally consist of large lots with agricultural and residential uses with a majority around 20 acres in size or smaller and the City of Whitefish residential lots less than 1 acre in size. Within that same radius the properties to the west are generally the smaller residential and agricultural lots with a majority of the lots around 5 acres in size.

**Finding #4:** The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff and the Whitefish Rural Fire Department and future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning.

**c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

The subject property is accessed via Monegan Road. Monegan Road is a paved County road within a 40 foot easement. With the proposed zoning the subject property could be divided into two additional lots. Based on projected land uses arising from the proposed zone change, this proposal could generate an additional 20 ADT. The projected traffic counts would likely not impact the ability of Monegan Road to facilitate adequate transportation because future subdivision would require paving requirements along at least a portion of the road, or a variance granted to this requirement, and the road department did not object to this proposal.

According to the applicant water and sewer would be developed with on-site systems if the property were to be subdivided and there was no opposition from the Flathead County Environmental Health Department regarding the proposed zone change. The application states, "All water and sewerage will be designed and permitted per Montana Department of Environmental Quality."

The subject property is located within the Whitefish School District and Whitefish High School District. Neither school district provided comments on this proposal. The proposed zoning has the potential to generate school children as a result of subdivision but is not likely to impact either school. According to census data for Flathead County, the average household size is 2.46 persons and approximately 16.5% of the population is between the ages of 5-18 years. The proposal has the potential to generate four additional dwellings and therefore could generate approximately one school age child.

The zoning map amendment would change the current minimum lot size from 10 acres to 5 acres on the subject properties. It is anticipated subsequent future subdivision would likely not require parkland dedication. Various parks, natural areas, and recreational opportunities are within a short drive of the subject property.

**Finding #5:** The proposed amendment would facilitate the adequate provision of transportation water, sewerage, schools, parks, and other public requirements because the Road and Bridge Department did not have any concerns regarding the proposal, the applicant would utilize individual wells and septic systems if

subdivided, no comments were received from the school districts and minimal impacts are expected, and recreational activities and parks are nearby.

**3. In evaluating the proposed map amendment, consideration shall be given to:**

**a. The reasonable provision of adequate light and air;**

Any additional lots created or structures built would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the SAG-5 zoning classification. The maximum building height within the proposed zone is 35 feet and the maximum building height of the existing zone is 35 feet.

The bulk and dimensional requirements under SAG-5 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet from the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The setbacks for the proposed zoning classification are identical to those of the current zoning. The bulk and dimensional requirements for the SAG-5 designation have been established to provide for a reasonable provision of light and air.

**Finding #6:** The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk, dimensional, setbacks and lot coverage requirements within the proposed SAG-5 designation.

**b. The effect on motorized and non-motorized transportation systems;**

Primary access to the property is currently off Monegan Road. Monegan Road is a public paved, two-lane road within 40 foot easement. The Road Department had no opposition to this proposal.

Using standard trip generation, residential uses generate traffic at typically 10 vehicle trips per dwelling for single family. Approximately two additional single family lots could be created, which would generate 20 average daily trips for an increase 5.5% on Monegan Road.

The Flathead County Trails Plan does not show Monegan Road as a roadway designated for trail development. Given the low traffic volume currently on Monegan Road and project build-out traffic volumes, it is likely that effects on non-motorized transportation would be minimal.

**Finding #7:** Effects on the motorized and non-motorized transportation system will be minimal because the property is accessed via Monegan Road a paved County road capable of handling the 20 additional ADT and the Road and Bridge Department did not have any concerns regarding the proposal.

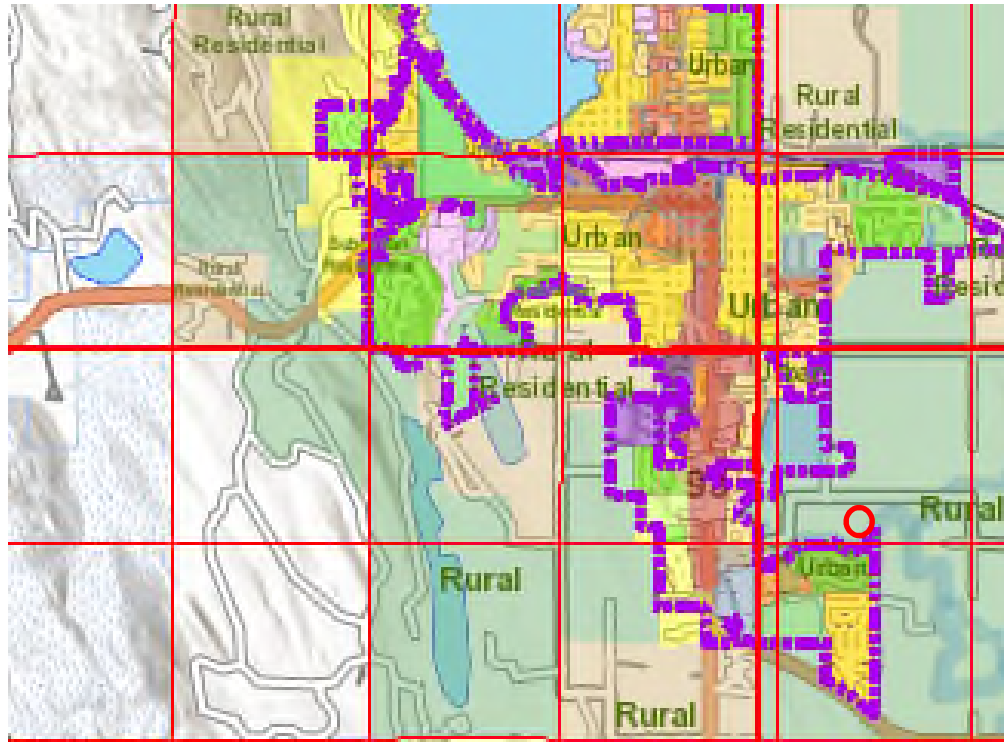
**c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

Whitefish is the nearest municipality to the subject property and is located adjacent to the property on the south. The property is located within the boundary of the Whitefish Growth Policy and is indicated on the Whitefish City – County Growth Policy Future Land Use Map. (See Figure 4). An agency referral was sent to the Whitefish Planning Department on December 9, 2021, however staff has not received any comments from the City as of the date on this report.

According to the application, “The subject property is more rural in nature and is located between two areas of Whitefish City limits. The proposed zone amendment is compatible with the growth of the surrounding properties, as it represents size, use and character of them, especially those located at northwest, east and southeast of the Wright’s. South across the Whitefish River at The Lakes at Riverside Subdivision is zoned WRL. To the west there is a property zoned R-2.5 which is similar in size and character to Mr. Wright’s properties and there are designations being used such as R-3 and WR-1 within close proximity as well.”

The Whitefish City-County Growth Policy Future Land Use Map includes the subject property. The Whitefish City-County Growth Policy Future Land Use Map designated the property as “Rural.” According to the Whitefish City-County Growth Policy the “Rural” land use designation is defined as, “Open lands with decidedly rural character, including farmlands, pasture lands, timber harvesting and management areas, and forest lands generally fall under this designation. Agricultural and timber management are generally allowed, but residential densities are extremely low. This designation includes “important farmlands” as defined by National Resources Conservation Service criteria. Zoning is mainly WA-10 and WA-20.”

**Figure 4:** Northern portion of City of Whitefish Growth Policy Future Land Use Map (Property outlined in red)



**Finding #8:** Consideration has been given to the proposals compatibility with the City of Whitefish growth and the proposal does not appear compatible because the SAG-5 designation would not closely follow the abutting ‘Urban’ designation.

- d. **The character of the district(s) and its peculiar suitability for particular uses;**  
The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.
  - i. ***The zoning allows a use that differs significantly from the prevailing use in the area.***  
As previously mentioned, the subject property is located within an area predominantly zoned SAG-10 to the north east and west, not including the adjacent property to the south. The SAG-5 and SAG-10 districts are so similar that a zone change would not allow uses or bulk and dimensional requirements that would differ significantly from the prevailing uses in the area.
  - ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***  
The proposed zone change would amend the zoning on four lots, 22.35 acres in size, owned by one landowner and adjacent to SAG-10 zoning.



- iii. *The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

As previously stated, the property is not located within a neighborhood plan area. While the Flathead County Growth Policy Land Use Map is not considered a future land use map, both this document and the City of Whitefish Growth Policy Future Land Use Map designate this area as ‘Rural.’ The zone change from SAG-10 to SAG-5 on 22.35 acres would directly benefit one landowner but would not do so at the expense of surrounding land owners because SAG-10 and SAG-5 uses and characteristics are similar and the applicant would continue to utilize the land in a manner compatible with the surrounding area and growth policies.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

**Finding #9:** The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within the SAG-10 and SAG-5 zoning, the proposal complies with Flathead County Growth Policy documents, and the change would not change the character of the area to the detriment of surrounding land owners.

- e. **Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

Allowing the requested zoning amendment on the subject property would likely conserve the value of buildings and encourage the most appropriate use of the land throughout the jurisdictional area because the uses allowed within the SAG-5 zone are similar to what is permitted and what currently exists in the surrounding SAG-10 and SAG-5 zoning designations.

**Finding #10:** This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the existing SAG-10 and the character of the area surrounding the property is rural estate residential and agricultural which is in line with the proposed SAG-5 zone.

4. **Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

As previously stated, the subject property is included within the Whitefish Growth Policy Future Land Use Map. The Whitefish Growth Policy Future Land Use Map designated the property as “Rural.”

The nearest City of Whitefish zoning is WLR adjacent to the south of the subject property. The Whitefish WLR zone is a residential zone that allows for single family residential on 1 acre lots. The proposed SAG-5 is more compatible with the City residential zones than the existing SAG-10 based on lot size. The City has a zoning designation which is based on larger lot sizes (WA – Agricultural District) however it

would not apply to this property because the minimum lot size is 15 acres. WCR – Country Residential District has a minimum lot size of 2.5 acres and WLR – Suburban Residential District are more compatible because the uses are similar and the minimum lot sizes are closest to the SAG-5 zoning. The amendment appears to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish.

**Finding #11:** The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed SAG-5 zone has a minimum lot size requirement greater than minimum lot size of the neighboring WLR zone but are less than the minimum of the WA zone and the permitted uses within the SAG-5 zone are similar to the permitted uses within the City’s WA zone and the City of Whitefish had no comments regarding this request.

## **V. SUMMARY OF FINDINGS**

1. The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the SAG-5 zone would allow for continued agriculture and residential use, allow for manufactured homes, single family homes and ADUs which has the potential to allow for affordable housing options, and the property is located in a rural area and the proposed zoning is rural in nature.
2. The proposed map amendment would secure safety from fire and other dangers because although the subject properties are in the WUI and a County Wide Priority area the subject properties and adjacent properties are not forested, and emergency services are available.
3. The subject property has minimal flood risk because only a small sliver of the properties are located within Zone A and within the 100-year floodplain on the FEMA FIRM panel.
4. The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff and the Whitefish Rural Fire Department and future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning.
5. The proposed amendment would facilitate the adequate provision of transportation water, sewerage, schools, parks, and other public requirements because the Road and Bridge Department did not have any concerns regarding the proposal, the applicant would utilize individual wells and septic systems if subdivided, no comments were received from the school districts and minimal impacts are expected, and recreational activities and parks are nearby.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk, dimensional, setbacks and lot coverage requirements within the proposed SAG-5 designation.
7. Effects on the motorized and non-motorized transportation system will be minimal because the property is accessed via Monegan Road a paved County road capable of handling the 20 additional ADT and the Road and Bridge Department did not have any concerns regarding the proposal.

8. Consideration has been given to the proposals compatibility with the City of Whitefish growth and the proposal does not appear compatible because the SAG-5 designation would not closely follow the abutting 'Urban' designation.
9. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within the SAG-10 and SAG-5 zoning, the proposal complies with Flathead County Growth Policy documents, and the change would not change the character of the area to the detriment of surrounding land owners.
10. This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the existing SAG-10 and the character of the area surrounding the property is rural estate residential and agricultural which is in line with the proposed SAG-5 zone.
11. The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed SAG-5 zone has a minimum lot size requirement greater than minimum lot size of the neighboring WLR zone but are less than the minimum of the WA zone and the permitted uses within the SAG-5 zone are similar to the permitted uses within the City's WA zone and the City of Whitefish had no comments regarding this request.

## **VI. CONCLUSION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: LM